

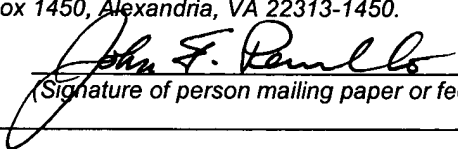
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John E. Ahern
Serial No.: Not assigned
Filed: Herewith
For: DEVICES AND METHODS FOR TREATING TISSUE
Examiner: Suzette Jamie Jackson
Art Unit: 3738

Express Mail mailing label number EV340040275US Date of Deposit: January 28, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: MAIL STOP PATENT APPLICATION, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

John F. Perullo
(Typed or printed name of person mailing paper or fee)


(Signature of person mailing paper or fee)

MAIL STOP PATENT APPLICATION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 C.F.R. §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the applicants request consideration of this information disclosure statement.

Compliance with 37 C.F.R. §1.97

This information disclosure statement has been filed within three months of the filing date of a national application. No fee or certification is required.

Information Cited

The applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the relative importance of the references.

**Explanation of Non-English Language References and
Remarks Concerning Other Information Cited**

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):

DE 19703482 is a German language document. An English language Derwent abstract was provided with the parent application.

FR 1,514,319 is a French language document. Due to the age of the document, an English language abstract was not available from the Derwent World Patent Index database.

Compliance with 37 C.F.R. §1.98(d)

The present application is a divisional application claiming priority under 35 U.S.C. §120 to U.S. application Serial No. 09/328,808, filed June 9, 1999. Information listed on the attached PTO 1449 form and marked with an asterisk (*) indicates information that was also cited in the parent application in compliance with 37 C.F.R. §1.98(a)-(c). Copies of these references have not been resubmitted with this filing.

Remarks

A copy of each of the above-identified information is enclosed unless otherwise indicated on the attached form PTO-1449 (modified). It is respectfully requested that:

- The examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

- The enclosed form PTO-1449 be signed by the examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
- The citations for the information be printed on any patent which issues from this application.

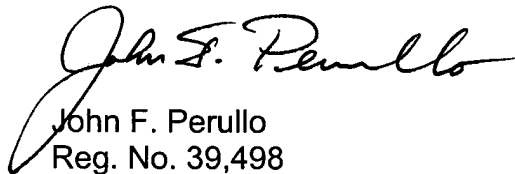
By submitting this information disclosure statement, the applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this information disclosure statement, the applicant makes no representation that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this information disclosure statement, the applicant makes no representation that the information cited in the statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

It is understood by applicant that the foregoing information will be considered and, to the extent deemed appropriate by the examiner, will be reflected in the examiner's communication.

Respectfully submitted,



John F. Perullo
Reg. No. 39,498
Kirkpatrick & Lockhart LLP
75 State Street
Boston, Massachusetts 02109
Customer No.: 022832
Tel: (617) 261-3100
Attorneys for Applicant

Docket No.: B0410/7283D1

Date: January 28, 2004

Form PTO-1449 INFORMATION DISCLOSURE STATEMENT	Docket No.: B0410/7283D1	Serial No.
	Applicant: John E. Ahern	
	Filed:	Group:

U.S. Patent Documents							
Ex.		Doc. No.	Date	Name	Class	Subcl.	Filed
	*	6,458,092	10/2002	Gambale et al.			
	*	6,447,522	09/2002	Gambale et al.			
	*	6,432,126	08/2002	Gambale et al.			
	*	6,283,872	05/2001	Mosseri			
	*	6,277,082	08/2001	Gambale			
	*	6,263,880	07/2001	Parker et al.			
	*	6,251,418	06/2001	Ahern et al.			
	*	6,248,112	06/2001	Gambale et al.			
	*	6,214,049	04/2001	Gayer et al.			
	*	6,206,914	03/2001	Soykan et al.			
	*	6,203,787	03/2001	Thompson			
	*	6,197,324	03/2001	Crittenden			
	*	6,179,817	01/2001	Zhong			
	*	6,136,306	10/2000	Granger			
	*	6,086,582	07/2000	Altman et al.			
	*	6,057,367	05/2000	Stamler et al.			
	*	6,053,924	04/2000	Hussein			
	*	6,045,565	04/2000	Ellis et al.			
	*	6,028,061	02/2000	Bernfield et al.			
	*	6,004,346	12/1999	Wolff et al.			
	*	5,980,548	10/1997	Evans			
	*	5,980,514	11/1999	Kupiecki et al.			
	*	5,971,993	10/1999	Hussein et al.			
	*	5,932,299	08/1999	Katoot			
	*	5,880,090	03/1999	Hammond et al.			
	*	5,879,383	03/1999	Bruchman et al.			
	*	5,861,032	01/1999	Subramaniam			
	*	5,851,217	12/1998	Wolff et al.			
	*	5,830,502	11/1998	Dong et al.			
	*	5,824,071	10/1998	Nelson et al.			
	*	5,824,049	10/1998	Ragheb et al.			
	*	5,817,101	10/1998	Fiedler			
	*	5,810,836	11/1999	Evans et al.			
	*	5,755,682	10/1999	Hussein			
	*	5,690,643	10/1999	Lambert			
	*	5,661,133	06/1999	Leiden et al.			
	*	5,655,548	08/1997	Nelson et al.			
	*	5,653,756	08/1997	Clarke et al.			
	*	5,562,922	10/1996	Lambert			

U.S. Patent Documents							
	*	5,551,427	09/1996	Altman			
	*	5,429,144	07/1995	Wilk			
	*	5,372,600	12/1994	Beyar et al.			
	*	5,366,493	11/1994	Scheiner et al.			
	*	5,180,366	01/1993	Woods			
	*	5,002,572	03/1991	Picha			
	*	4,904,264	02/1990	Scheunemann			
	*	4,894,057	01/1990	Howes			
	*	4,868,113	09/1989	Jaye et al.			
	*	4,820,626	04/1989	Williams et al.			
	*	3,680,544	08/1972	Shinnick et al.			

U.S. PATENT APPLICATION DOCUMENTS							
Ex.		Ser. No.	Filed	Name	Class	Subcl.	
	*	10/048,694	06/10/2002	Gambale et al.			
	*	10/048,205	05/02/2002	Gambale			
	*	09/990,644	11/21/2001	Gambale et al.			
	*	09/888,757	06/25/2001	Ahern et al.			
	*	09/774,320	01/31/2001	Gambale et al.			
	*	09/774,319	01/31/2001	Gambale et al.			
	*	09/743,726	04/12/2001	Gambale et al.			
	*	09/743,695	04/12/2001	Weiser et al.			
	*	09/368,119	08/04/1999	Tedeschi et al.			
	*	09/299,795	04/26/1999	Ahern			
	*	09/211,332	12/15/1998	Gambale et al.			
	*	09/162,547	09/29/1998	Gambale			
	*	09/159,834	09/24/1998	Cafferata			
	*	09/073,118	05/05/1998	Gambale			

FOREIGN PATENT DOCUMENTS							
Ex.	*	Doc. No.	Date	Name	Class	Subcl.	
	*	DE 19703482	01/31/97	Dotter			
	*	FR 1514319	01/15/67	Zacouto			
	*	EP 0 953 320A2	11/03/99	Tuch			
	*	EP 0 853 921A2	07/22/98	Harman et al.			
	*	EP 0 830 873A2	03/25/98	Ogawa et al.			
	*	EP 0 717 969A2	06/26/96	Sepetka et al.			
	*	EP 0 490 459A1	06/17/92	Gross			
	*	WO 99/53863	10/28/99	Vanney et al.			
	*	WO 99/21510	05/06/99	Evans			
	*	WO 98/46115	10/22/98	Makower			
	*	WO 98/29148	07/09/98	Yang et al.			
	*	WO 98/23228	06/04/98	Burkoth et al.			
	*	WO 97/45105	12/04/97	Hunter et al.			
	*	WO 97/38730	10/23/97	Bertrand et al.			
	*	WO 97/42910	07/20/97	Bruess et al.			

FOREIGN PATENT DOCUMENTS							
	*	WO 96/20698	07/11/96	Levy et al.			
	*	WO 95/33511	12/14/95	Lee			
	*	WO 94/27612	12/08/94	French et al.			
	*	WO 90/06723	06/28/90	Rose et al.			
	*	WO 83/03752	11/1983	Wallsten			

OTHER DOCUMENTS (including, Author, Title, Date, Pages, Etc.)							
	*	"MYOBLAST TRANSFER THERAPY", Dogpile Internet Search Results					
	*	Braun, "MYF-5 AND MYOD GENES ARE ACTIVATED IN DISTINCT MESENCHYMAL STEM CELLS AND DETERMINE DIFFERENT SKELETAL MUSCLE CELL LINEAGES", <i>EMBO J.</i> 15:310-318 (Jan 1996)					
	*	Butler, "EVIDENCE FOR A REGENERATIVE CAPACITY IN ADULT MAMMALIAN CARDIAC MYOCYTES", <i>Am. J. Physiol</i> 256(3 Pt. 2): pp. R797-R800 (Mar 1989)					
	*	Chiu et. al., "CELLULAR CARDIOMYOPLASTY: MYOCARDIAL REGENERATION WITH SATELLITE CELL IMPLANTATION", <i>Ann Thorac Surg</i> 60:12-18 (Jul 1995)					
	*	Gulati, "REGENERATION PATTERN OF CARDIAC AND SKELETAL MUSCLE AFTER TRANSPLANTATION INTO A SKELETAL MUSCLE BED IN RATS", <i>Anat Rec.</i> 242:188-194 (Jun 1995)					
	*	Heschler et al., "EMBRYONIC STEM CELLS: A MODEL TO STUDY STRUCTURAL AND FUNCTIONAL PROPERTIES IN CARDIOMYOGENESIS", <i>Cardiovascular Research</i> 16:149-162 (1997)					
	*	Li et. al., "CELL THERAPY TO REPAIR BROKEN HEARTS" <i>Can J. Cardiology</i> 14:735-744 (1998)					
	*	Maciag, "MOLECULAR AND CELLULAR MECHANISMS OF ANGIOGENESIS", <i>Important Adv Oncol.</i> (1990) pp. 85-98					
	*	Makino et. al., "ESTABLISHMENT OF A CARDIOMYOGENIC CELL LINE FROM MOUSE BONE MARROW STROMAL CELL EXPOSED TO 5-AZACYTIDINE", <i>Abstracts from the 70th Scientific Sessions Orange County Convention Center</i> , Orlando Florida, Nov. 9-12 1997: Supplement to Circulation, Vol. 96:No.8, October 21, 1997					
	*	Maragoudakis, et al., "THE ROLE OF THROMBIN AND ITS RECEPTORS IN ANGIOGENESIS. PHYSIOLOGICAL AND PATHOLOGICAL APPLICATIONS", <i>Angiogenesis: Models, Modulators and Clinical Applications</i> , Plenum Press, 1998, pp. 225-231.					
	*	Mima et. al., "FIBROBLAST GROWTH FACTOR RECEPTOR IS REQUIRED FOR IN VIVO CARDIAC MYOCYTE PROLIFERATION AT EARLY EMBRYONIC STAGES OF HEART DEVELOPMENT", <i>Proc. Natl. Acad. Sci. USA</i> 92:467-471 (Jan 1995)					
	*	Murry et. al., "SKELETAL MYOBLAST TRANSPLANTATION FOR REPAIR OF MYOCARDIAL NECROSIS", <i>The American Society for Clinical Investigation, Inc.</i> , 98:2512-2523 (Dec 1996)					
	*	Murry et. al., "MUSCLE DIFFERENTIATION DURING REPAIR OF MYOCARDIAL NECROSIS IN RATS VIA GENE TRANSFER WITH MYOD", <i>The American Society for Clinical Investigation, Inc.</i> 98:2209-2217 (Nov 1996)					
	*	Robinson et. al., "IMPLANTATION OF SKELETAL MYOBLAST-DERIVED CELLS", <i>Cellular Cardomyoplasty: Myocardial Repair with Cell Implantation</i> , R.G. Landes Co., pp. 79-104 (1997)					

OTHER DOCUMENTS (including, Author, Title, Date, Pages, Etc.)		
	*	Stanton, et al., "THE EFFECT OF ABRASION OF THE SURFACE OF THE HEART UPON INTERCORONARY COMMUNICATIONS", <i>Laboratory of Surgical Research, Western Reserve University School of Medicine and University Hospitals of Cleveland</i> , pp. 529-538, March 12, 1940.
	*	Tam et. al., "CARDIAC MYOCYTE TERMINAL DIFFERENTIATION, POTENTIAL FOR CARDIAC REGENERATION", <i>Ann NY Acad. Sci.</i> 27;752:72-79 (Mar 1995)
	*	Wakitani et. al., "MYOGENIC CELLS DERIVED FROM RAT BONE MARROW MESENCHYMAL STEM CELLS EXPOSED TO 5-AZACYTIDINE", <i>Muscle Nerve</i> 18:1417-1426 (Dec 1995)
	*	Warejcka et. al., "A POPULATION OF CELLS ISOLATED FROM RAT HEART CAPABLE OF DIFFERENTIATING INTO SEVERAL MESODERMAL PHENOTYPES", <i>J. Surg. Res.</i> 62:233-242 (May 1996)
	*	Yamaguchi, "REGULATION OF DIFFERENTIATION PATHWAY OF SKELETAL MESENCHYMAL CELLS IN CELL LINES BY TRANSFORMING GROWTH FACTOR-BETA SUPERFAMILY", <i>Semin Cell Biol.</i> 6:165-173 (Jun 1995)

Examiner:	Date considered
-----------	-----------------

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. An * indicates references that do not require a copy to be provided under 37 C.F.R. §1.98(d) because a copy was previously cited or submitted in a prior application, which is relied upon under 35 U.S.C. §120.